Subject: NCVHS Subcommittee on Privacy and Confidentiality
From: "Robert H. Shelton" <rbtshelton@linkonline.net>
Date: Wed, 12 Feb 1997 18:56:45 -0800
To: jfanning@osaspe.dhhs.gov
CC: Halden Conner <hconner1@aol.com>, "Tom G. Plaskett" <tgplaskett@aol.com>

I am writing with respect to my firm's desire to present written testimony to the NCVHS Subcommittee on Privacy and Confidentiality with respect to its responsibility for helping develop recommendations to give to the Secretary of Health and Human Services (HHS) regarding privacy standards of individually identifiable health information.

By way of background, the name of my firm is Allcare Health Management Systems, Inc. We are a privately-owned firm and the lawful assignee of U. S. Patent #5,301,105 covering a comprehensive health care system for the integrated interconnection and interaction of the patient, health care provider, payor, insurer, utilization reviewer and employer. We believe that the development activities in which our firm is currently engaged as we work to implement the system covered by the patent may have significant relevance to the Subcommittee's deliberations and to the substantive content of its recommendations that are ultimately made to the Secretary of HHS.

It is our understanding that the Subcommittee's invitation for written comments and the purpose of these hearings in general is to explore in detail the options, choices, and trade-offs that must be a part of any health privacy legislation. To the extent this interpretation of the Subcommittee's work is accurate, we feel you should be aware of our firm's current activities since in addition to the 1994 patent referenced above, our firm is currently in the process of developing a technology specifically for enabling privacy safeguards for all patient records and to be used in conjunction with a master patient index and database search engine for medical patient records. We are currently preparing additional patent applications concerning this novel system and method for assuring the privacy of patient records is maintained through informed patient consent while simultaneously facilitating the sharing of such information by medical professionals and other parties, once authorized.

We are working with several hospitals to design beta test programs prior to the end of Calendar Year 1997. While we strongly believe that these new innovations may have specific relevance to the Subcommittee's work, the issue which arises for our firm is one of timing, given the February 19, 1997 deadline established by the Subcommittee for submitting written comments and the fact that our work is presently confidential for the reasons set forth below. Accordingly, we wish to inquire if there is a way that our commercial interests can be protected and the public good achieved by temporarily holding the content of any writings we submit

"confidential between us and the Subcommittee" for several months' time until we complete the preparation and filing of the appropriate patent applications. Once these filings have been made and the beta testing programs concluded, any testimony could then be publicly disclosed as members of the Subcommittee deem appropriate.

Would you please inform us if there is any way to address both of these interests which are temporarily in conflict, as for instance through us presenting our testimony in the form of a sealed letter to the Subcommittee? Alternatively, could you recommend an appropriate subsequent forum at which we could present this information so that it may be taken into account in the HHS report to Congress regarding privacy standards for individually identifiable health information required by Pub. L. 104-191, Section 264.

Thank you for directing this inquiry to the appropriate member of the Subcommittee's staff and for your timely reply.

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